

Department of Energy

927.402-1

DOE laboratories and production facilities.

(b) DOE shall not use the clause at (FAR) 48 CFR 52.227-12 except in situations where patent counsel grants a request for advance waiver pursuant to 10 CFR part 784 and supplies the contracting officer with that clause with appropriate modifications. Otherwise, in instances in which DOE grants an advance waiver or waives its rights in an identified invention pursuant to 10 CFR part 784, contracting officers shall consult with patent counsel for the appropriate clause.

(c) Any contract that has as a purpose the design, construction, operation, or management integration of a collection of contracts for the same purpose, of a Government-owned research, development, demonstration or production facility must accord the Government certain rights with respect to further use of the facility by or on behalf of the Government upon termination of the contract. The patent rights clause in such contracts must include the following facilities license paragraph:

[Insert appropriate paragraph no.] *Facilities License.* In addition to the rights of the parties with respect to inventions or discoveries conceived or first actually reduced to practice in the course of or under this contract, the Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice or acquired by the Contractor at any time through completion of this contract and which are incorporated or embodied in the construction of the facility or which are utilized in the operation of the facility or which cover articles, materials, or products manufactured at the facility (1) to practice or have practiced by or for the Government at the facility, and (2) to transfer such license with the transfer of that facility. Notwithstanding the acceptance or exercise by the Government of these rights, the Government may contest at any time the enforceability, validity or scope of, title to, any rights or patents herein licensed.

(End of paragraph)

[60 FR 11816, Mar. 2, 1995, as amended at 63 FR 10505, Mar. 4, 1998; 65 FR 68935, Nov. 15, 2000; 65 FR 81007, Dec. 22, 2000]

927.304 Procedures.

Where the contract contains the clause at 952.227-11 and the contractor does not elect to retain title to a subject invention, DOE may consider and, after consultation with the contractor, grant requests for retention of rights by the inventor subject to the provisions of 35 U.S.C. 200 *et seq.* This statement is in lieu of (FAR) 48 CFR 27.304-1(c).

[60 FR 11816, Mar. 2, 1995]

927.370 [Reserved]

Subpart 927.4—Technical Data and Copyrights

927.400 Scope of subpart.

This subpart sets forth DOE's policy, procedures, and instructions for contract clauses with respect to the acquisition and use of technical data and copyrights in contracts or subcontracts entered into, with or for the benefit of the Government.

927.402 Acquisition and use of technical data.

927.402-1 General.

(a) The provisions herein pertain to research, development, demonstration and supply contracts. Special considerations for contracts for the operation, design, or construction of Government-owned facilities are covered by subpart 970.27. Under DOE's broad charter to perform research, development, and demonstration work, in both nuclear and nonnuclear fields, and to meet the objectives stated in 927.402-2, DOE has extensive needs for technical data. The satisfaction of these needs and the achievement of DOE's objectives through a sound data policy are found in the balancing of the needs and equities of the Government, its contractors, and the general public.

(b) It is important to keep a clear distinction between contract requirements for the delivery of technical data and rights in technical data. The legal rights which the Government acquires in technical data in DOE contracts, other than management and operating contracts (see 48 CFR 970.2704)